

1917
*Oct. 9.
*Oct. 15.

THE UNITED STATES FIDELITY & GUARANTY
CO. v. DEISLER.

ON APPEAL FROM THE COURT OF APPEAL FOR BRITISH
COLUMBIA.

*Suretyship—Principal and surety—Bond—"To pay all damages"—
Costs.*

APPEAL from the judgment of the Court of Appeal for British Columbia (1), varying a judgment of Murphy J. at the trial and maintaining the respondent's (plaintiff's) action.

The respondent having applied for an *interim* injunction, an order was made that the Spruce Creek Company, sued by him, should give security to cover any damages that might be awarded him. That company with the appellant became parties to a bond to pay such damages. The judgment in the damage action gave the respondent \$14,490 damages, \$3,025.08 costs and \$1,532.57 interest. The trial judge, in the present action, gave judgment on the bond, against the appellant in favour of the respondent for the full amount. The Court of Appeal, Martin J. dissenting, varied this judgment and held that the bond was not covering the costs.

On the appeal by the defendant to the Supreme Court of Canada, the court, after hearing counsel for both parties, reserved judgment, and, at a subsequent date, dismissed the appeal with costs.

Appeal dismissed with costs.

Farris K.C. for the appellant.

Chrysler K.C. for the respondent.

*PRESENT:—Sir Charles Fitzpatrick C.J. and Davies, Idington, Duff and Anglin JJ.